

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

KEVIN LENEAR CAMP,

Petitioner,

v.

DWIGHT NEVEN, *et al.*,

Respondents.

Case No. 2:09-cv-01117-MMD-NJK

ORDER

The court of appeals reversed and remanded with instructions to grant a writ of habeas corpus requiring respondents to release petitioner from custody unless the State of Nevada initiates new trial proceedings within a reasonable period of time. (Dkt. no. 69.) The Court will address the granting of the habeas petition.

The court of appeals issued its order on March 26, 2015. (*Id.*) Issuance of the mandate was stayed while respondents decided whether to petition the Supreme Court of the United States for a writ of certiorari. On or before July 8, 2015, respondents informed the court of appeals that they would not be seeking a writ of certiorari. The court of appeals lifted the stay and issued the mandate on July 8, 2015 (dkt. nos. 70, 71). Petitioner then filed two motions seeking release (dkt. nos. 72, 74), and the briefing deadline on each motion expired without respondents filing any response. In total, respondents have had about six months to decide what to do in light of the court of appeals' order.

It is therefore ordered that the Clerk of the Court shall reopen this action.


1 It is further ordered that the second amended petition for writ of habeas corpus  
2 (dkt. no. 17) is granted conditionally. Accordingly, respondents shall release petitioner  
3 from the custodial constraints imposed as a result of his judgment conviction filed in the  
4 Eighth Judicial District Court of the State of Nevada, Washoe County, in *State v. Camp*,  
5 Case No. 98C149087, within seven (7) days unless respondents file a written election in  
6 this matter within the seven-day period to retry petitioner and thereafter commences jury  
7 selection in the retrial within one hundred twenty (120) days following the election to  
8 retry petitioner, subject to reasonable request or modification of the time periods in the  
9 judgment by either party pursuant to Rules 59 or 60 of the Federal Rules of Civil  
10 Procedure. However, it should be noted that the Court sees no reason why respondents  
11 would not be able to disclose their decision within the allotted time given the  
12 approximately six months that they have had to decide how to proceed.

13 It is further ordered that the Clerk of the Court shall enter judgment accordingly in  
14 favor of petitioner and against respondents, conditionally granting the second amended  
15 petition for writ of habeas corpus (dkt. no. 17) as provided above.

16 It is further ordered that petitioner's motion for release pending further  
17 proceedings (dkt. no. 72) and motion for immediate release/issuance of conditional writ  
18 (dkt. no. 74) are denied as moot.

19 It is further ordered that the Clerk of the Court shall forthwith provide a copy of  
20 this order and the judgment (1) to the clerk of the Eighth Judicial District Court of the  
21 State of Nevada, in connection with that court's case *State v. Camp*, No. 98C149087,  
22 (2) to the District Attorney of Clark County, and (3) to the Nevada Supreme Court, in  
23 connection with that court's cases *Camp v. State*, No. 36559, and *Camp v. State*, No.  
24 49942.

25 DATED THIS 14<sup>th</sup> day of September 2015.

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27   
28 MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE